

**OPINION  
56-72**

November 8, 1956            (OPINION)

COUNTY COMMISSIONERS

RE: Meeting - Holiday

Pursuant to an oral conversation of Wednesday, November 7, 1956, this office has considered the following problem which you then presented: Section 11-1105 of the N.D.R.C. of 1943 requires the board of county commissioners to meet and hold sessions for the transaction of business of certain days and in particular on the first Tuesday of January of each year. The first Tuesday of January, 1957, will fall on a legal holiday and your question is whether the county board should meet on Wednesday, a day later, or on the following Tuesday.

Section 11-1105 of the N.D.R.C. of 1943 is silent on this situation but section 1-0305 of the code does provide that:

Whenever an act of secular nature, other than a work of necessity of mercy, is appointed by law or contract to be performed upon a particular day, which falls upon a holiday, such act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed."

Though the section quoted uses the phrase "may be performed" which implies that it does not necessarily have to be performed on that day, it is suggested that this statute be followed and that the meeting be called on the next day or Wednesday for it seems clear that if the meeting is held on that day it would meet the requirements of section 11-1105 while if the meeting was held on the following Tuesday, the validity of the meeting would be more in doubt.

LESLIE R. BURGUM

Attorney General